IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

COMPANY PETITION NO.180 OF 2007
CONNECTED WITH
COMPANY APPLICATION NO. 308 OF 2007

In the matter of Share Capital of Lombardini (India) Pvt.Ltd.

Lombardini (India) Pvt.Ltd. ... Petitioner.

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Mr. Pandya i/b. Pandya & Co. for the Petitioner.
Mr. C.J. Joy for Regional Director.
Mrs. K.V. Gautam, Dy. O.L.

....

CORAM : DR. D.Y.CHANDRACHUD,J.

04th May, 2007.

P.C. :

. The sanction of the Court is sought to a reduction in the share capital of the Petitioner and the approval of the Court is sought to the following minutes :-

> "The Paid-up share capital of the company, viz. 3,48,37,985 shares of the face value of Rs.10/- amounting to Rs.34,83,79,850/- is hereby reduced to Rs.69,67,597 "as an" effect per share. Further, the Company be exempted to use the words "AND REDUCED TO" after its name as required under Section 102 of the Companies Act, 1956."

2. A Special Resolution was passed on 20th December 2006 at the Extraordinary General Meeting of the Company. The Company proposes to set off the debit balance in the profit and loss account as on 31st March 2006 against the share capital. The circumstances, in which this has become necessary have been clarified in paragraph 10 of the affidavit which reads as follows :-

> " Further in pursuance of its operating initiatives, it is considered necessary that the Company also undertake a scheme for financial restructuring so as to operate with a leaner balance sheet and to more appropriately reflect its future financial performance. The need to reduce capital is justified on the following grounds :
>
> (a) The accumulated losses, which the company has incurred is irreversible on account of a continuous under utilization of capacity over the past years.

Consequently, the share capital to the extent of these accumulated losses has permanently been lost.

(b) Writing off these losses against the share capital of the Company would be beneficial to the Company since this will improve the net worth of the company and also avert the possibility of the Company becoming a ‘Sick Industrial Company’.

(c) The Company can then raise finance efficiently by fresh issue of share capital. This fresh share capital may then be utilized for proposed business plans of the Company."

3. The statutory compliances have been duly effected. There is no reason why the prayer for reduction should not be sanctioned. The Company Petition is made absolute in terms of prayer clauses (a) and (b).